MONTANA ADMINISTRATIVE REGISTER

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ISSUE NO. 10

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the amendment of ARM 6.6.4802 pertaining to Fire Premium Allocation and ARM 6.6.4803 pertaining to Presumptively Reasonable Allocations	)))))	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI) proposes to amend the above-stated rules.

2. CSI will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact CSI no later than 5:00 p.m. on June 6, 2023, to advise us of the nature of the accommodation that you need. Please contact Sam Loveridge, Communications Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail csi@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

6.6.4802 FIRE PREMIUM ALLOCATION PROCEDURE (1) Insurers paying fire premium tax required by 50-3-109(1), MCA, shall provide to the CSI the calculation of fire premium separately for each line of business identified in 50-3-109(2), MCA.

(2) For each line of business identified in 50-3-109(2), MCA, the following apply to an insurer's reporting obligation under (1):

(a) If the percentage of fire premium reported is at or above the presumptively reasonable allocation, the insurer need not provide any other documentation to justify that fire premium;

(b) If the percentage of fire premium reported is below the presumptively reasonable allocation, the insurer shall provide the basis for the calculation of fire premium along with any supporting documentation to the CSI. If the CSI accepts the insurer's calculation of fire premium, and in subsequent years the percentage of fire premium remains the same, the insurer is not required to provide such justification to the CSI; or

(c) Unless the presumptively reasonable allocation for a line of business is 0% as provided in ARM 6.6.4803(1), if ~~If~~ the fire premium reported is zero, the insurer shall provide the policy terms which show that risk of fire is excluded from the policy. If the CSI accepts the insurer's calculation of fire premium, and in subsequent years the calculation and policy terms remain the same, the insurer is not required to provide such policy terms to the CSI.

(3) If a rider, schedule, or addition to a policy:

(a) exclusively includes risk of fire, then all premium collected under such rider, schedule, or addition must be included in the fire line of business at 100% fire premium; or

(b) includes risk of fire as well as other risks, then all premium collected under such rider, schedule, or addition must be included in the line of business of the policy.

AUTH: 33-1-313, MCA
IMP: 33-2-705, MCA

6.6.4803 PRESUMPTIVELY REASONABLE ALLOCATIONS (1) For purposes of 33-2-705(3) and 50-3-109(2), MCA, the presumptively reasonable allocations for the following lines of business are ~~The presumptively reasonable allocation for each line of business identified in 50-3-109(2), MCA, is~~ as follows:

(a) for fire, 100%;
(b) for allied lines, 30%;
(c) for farmowners multi-peril, 40%;
(d) for homeowners multi-peril, 40%;
(e) for commercial multi-peril (nonliability), 50%;
(f) for commercial multi-peril (liability), 0%~~35%~~;
(g) for ocean marine, 12%;
(h) for inland marine, 15%;
(i) for other private passenger auto liability, 0%~~9%~~;
(j) for other commercial auto liability, 0%~~9%~~;
(k) for private passenger auto physical damage, 9%;
(l) for commercial auto physical damage, 9%;
(m) for aircraft, 15%;
(n) for burglary and theft, 0%~~20%~~; and
(o) for boiler and machinery, 0%~~15%~~.

AUTH: 33-1-313, MCA
IMP: 33-2-705, MCA

4. REASON: As part of the biannual review of CSI's rules as required by 2-4-314, MCA, Montana State Auditor Troy Downing (commissioner) identified the above-stated rules for revision to reduce the presumptive premium tax allocation for certain lines of insurance which experience has shown are relatively unproductive lines.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Sam Loveridge, CSI Communications Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail CSI@mt.gov, and must be received no later than 5:00 p.m., June 23, 2023.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they

must make written request for a hearing and submit this request along with any written comments to Sam Loveridge at the above address no later than 5:00 p.m., June 23, 2023.

7. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed actions; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 38 people based on a conservative estimate of how frequently CSI receives questions concerning the above-stated rules per year.

8. CSI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 5 or may be made by completing a request form at any rules hearing held by CSI.

9. An electronic copy of this proposal notice is available through the Secretary of State's website at http://sosmt.gov/ARM/Register.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, CSI has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ *Mark Mattioli*
Mark Mattioli
Rule Reviewer

/s/ *Ole Olson*
Ole Olson
Chief Legal Counsel
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the repeal of ARM 18.16.101 through 18.16.108 pertaining to the Fuel Tax Bridge and Road Safety and Accountability Program	)))))	NOTICE OF PROPOSED REPEAL NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On June 26, 2023, the Department of Transportation proposes to repeal the above-stated rules.

2. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require accommodation, contact the Department of Transportation no later than 5:00 p.m. on June 16, 2023, to advise us of the nature of the accommodation needed. Please contact Lawrence Flynn, Department of Transportation, Administration Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-9418; fax (406) 444-5411; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail lflynn@mt.gov.

3. The department proposes to repeal the following rules:

18.16.101 DEFINITIONS

AUTH: 15-70-104, MCA
IMP: 15-70-127, 15-70-130, 60-2-225, MCA

18.16.102 ELIGIBILITY – ALLOCATION – MATCHING FUNDS

AUTH: 15-70-104, MCA
IMP: 15-70-127, 15-70-130, MCA

18.16.103 DISTRIBUTION TERMS AND CONDITIONS

AUTH: 15-70-104, MCA
IMP: 15-70-127, 15-70-130, 60-2-225, MCA

18.16.104 BARSAA MATCH FUNDS – ADMINISTRATION OF FEDERAL-AID PROJECTS

AUTH: 15-70-104, MCA
IMP: 15-70-130, MCA

18.16.105 DISTRIBUTION REQUEST PROCESS – DEADLINES

AUTH: 15-70-104, MCA
IMP: 15-70-127, 15-70-130, MCA

18.16.106 RESTRICTED ASSET ACCOUNT – OBLIGATION OF FUNDS

AUTH: 15-70-104, MCA
IMP: 15-70-127, 15-70-130, MCA

18.16.107 RESERVATION OF ALLOCATED FUNDS

AUTH: 15-70-104, MCA
IMP: 15-70-127, 15-70-130, MCA

18.16.108 ANNUAL REPORT

AUTH: 15-70-104, MCA
IMP: 60-2-225, MCA

REASON: The proposed repeal of ARM 18.16.101 through 18.16.108 is necessary because House Bill 76 (2023) repeals the department's Bridge and Road Safety and Accountability Program, removing the need for these rules. HB 76 was passed as part of the Governor's red tape relief initiative (Executive Order 1-2021) and will simplify the distributions of funds to local governments.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Lawrence Flynn, Department of Transportation, Administration Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-9418; fax (406) 444-5411; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail lflynn@mt.gov, and must be received no later than 5:00 p.m., June 23, 2023.

5. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Lawrence Flynn at the above address no later than 5:00 p.m., June 23, 2023.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 18 persons based on 127 cities and 56 counties entitled to receive BARSAA funds.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available on the Department of Transportation website at www.mdt.mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply. The sponsor was contacted via email and U.S. mail on April 17, 2023.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the repeal of the above-referenced rules will not significantly and directly impact small businesses.

11. With regard to the requirements of 2-15-142, MCA, the department has determined that the repeal of the above-referenced rules will not have direct tribal implications.

/s/ Valerie A. Balukas
Valerie A. Balukas
Rule Reviewer

/s/ Malcolm D. Long
Malcolm D. Long
Director
Department of Transportation

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 18.15.419 pertaining to Refunds of Gasoline and Special Fuel Tax	)))))	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On June 26, 2023, the Department of Transportation proposes to amend the above-stated rule.

2. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require accommodation, contact the Department of Transportation no later than 5:00 p.m. on June 16, 2023, to advise us of the nature of the accommodation that you need. Please contact Kendra Smith, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-0806; fax (406) 444-5411; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail kesmith@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

18.15.419 STATEMENT FOR KEYLOCK CARDTROL REPORTING

(1) remains the same.

(2) Electronic transaction reports shall be provided to the purchaser with a statement of fuel purchased on which a refund may be claimed in accordance with 15-70-430, MCA. The statement may be prepared as frequently as deemed necessary, but one statement must be issued at least every 30 days.

AUTH: 15-70-104, MCA
IMP: 15-70-426, 15-70-430, 15-70-432, MCA

REASON: The proposed amendment is necessary because House Bill 75 (2023), amended 15-70-426, 15-70-430, and 15-70-432 MCA to allow applicants the option to submit electronic transaction reports as supporting documentation for the purchase of gasoline or special fuel for eligible Montana fuel tax refunds. HB 75 was passed as part of the Governor's red tape relief initiative (Executive Order 1-2021) and will simplify the required supporting documentation for motor fuel tax refund applications.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kendra Smith, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406)

444-0806; fax (406) 444-5411; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail kesmith@mt.gov, and must be received no later than 5:00 p.m., June 23, 2023.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kendra Smith at the above address no later than 5:00 p.m., June 23, 2023.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the MAR. Ten percent of those directly affected has been determined to be 374 persons based on the current 3,741 motor fuel tax refund applications in 2022 in Montana.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available on the Department of Transportation website at www.mdt.mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply. The sponsor was contacted via email and U.S. mail on April 17, 2023.

10. With regard to the requirements of 2-4-111, MCA, the department has determined the proposed amendment will not significantly and directly impact small businesses.

11. With regard to the requirements of 2-15-142, MCA, the department has determined that the amendment of the above-referenced rule will not have direct tribal implications.

/s/ Valerie A. Balukas
Valerie A. Balukas
Rule Reviewer

/s/ Malcolm D. Long
Malcolm D. Long
Director, Department of Transportation

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.34.1902 pertaining to Applied Behavior Analysis Services	)))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On June 15, 2023, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: https://mt-gov.zoom.us/j/82763580915?pwd=SFRaMHkzaHUxOGZTSlJ1cTFETm9SZz09, meeting ID: 827 6358 0915, and password: 925218; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 827 6358 0915, and password: 925218. Find your local number: https://mt-gov.zoom.us/u/kedP41NOnB.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 1, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-3026; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.34.1902 DEFINITIONS The definitions applicable to Applied Behavior Analysis (ABA) therapy services are as follows:

(1) through (9) remain the same.

(10) "Diagnostic evaluation" means an evaluation performed by a qualified health care professional with expertise in the diagnostic area, that establishes the qualifying diagnosis~~.~~ through interview, observation, and formal assessment tools appropriate to the condition for which services are requested. The qualified health care professional with expertise in the diagnostic area may use assessments from professionals outside of their fields to obtain information that contributes to the diagnostic process.

(11) "Eligibility criteria" means those criteria established for the purposes of the program of ABA services authorized by the department, as specified in the Montana Medicaid Applied Behavior Analysis Services Manual (ABA Services ~~m~~Manual), dated ~~September 24, 2022~~ July 1, 2023. The department adopts and

incorporates by reference the ABA Services ~~m~~Manual which provides the public with greater detail about ABA services. Any conflict between these rules and what is outlined in the ABA Services ~~m~~Manual should be resolved in favor of what is written in these rules. A copy of the manual may be accessed on the DPHHS website at the following link: https://medicaidprovider.mt.gov/manuals/appliedbehavioranalysisservicesmanual or a paper copy may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Behavioral Health and Developmental Disabilities Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at https://medicaidprovider.mt.gov/76.

(12) "Functional impairment criteria" are defined in the ABA Services ~~m~~Manual.

(13) and (14) remain the same.

(15) "Qualified health care professional with expertise in the diagnostic area," for the purpose of Montana Medicaid ABA therapy services, refers to ~~one of the following~~ a licensed professional with formal training in child and adolescent psychiatric diagnosis and treatment, and has training specific to SED and ASD. A qualified health care professional with expertise in the diagnostic area must belong to one of the following categories:

(a) remains the same.

(b) general psychiatrist ~~with child and adolescent experience~~;

(c) psychiatric mental health nurse practitioner ~~with child and adolescent experience~~;

(d) developmental pediatrician; ~~or~~

(e) neurologist;

~~(e)~~ (f) neuropsychologist or psychologist~~.~~;

(g) pediatrician;

(h) family physician;

(i) family or pediatric nurse practitioner;

(j) physician assistant;

(k) clinical professional counselor; or

(l) clinical social worker.

(16) and (17) remain the same.

(18) "Serious emotional disturbance" (SED), for the purposes of the program of ABA services authorized by the department, is a mental disorder as defined in the Clinical Guidelines chapter of the ABA Services ~~m~~Manual.

(19) "Treatment plan" means an individualized written document that has been developed from the BIA and contains all the critical features listed in the Applied Behavior Analysis Treatment of Autism Spectrum Disorder: Practice Guidelines for Healthcare Funders and Managers Second Edition (ABA Treatment of ASD: Practice Guidelines) issued by the Behavior Analyst Certification Board, Inc.® (BACB) and/or Council of Autism Service Providers. The department adopts and incorporates by reference the ABA Treatment of ASD: Practice Guidelines, which provides guidelines and other information about ABA treatment for ASD. A copy is available for public inspection at the Department of Public Health and Human Services, Behavioral Health and Developmental Disabilities Division, Developmental

Disabilities Program, located at 111 N. Sanders, Helena, MT 59604-4210 and is available online at ~~https://casproviders.org/wp-content/uploads/2020/03/ABA-ASD-Practice-Guidelines.pdf~~ https://assets-002.noviams.com/novi-file-uploads/casp/pdfs-and-documents/ASD_Guidelines/ABA-ASD-Practice-Guidelines.pdf.

(20) remains the same.

AUTH; 53-2-201, 53-6-113, 53-21-703, MCA
IMP: 53-1-601, 53-1-602, 53-2-201, 53-6-101, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.1902.

ARM 37.34.1902 lists who is authorized to establish a qualifying diagnosis for the continuation of ABA services after an initial 180 days of allowed services. The current list includes child and adolescent psychiatrists, general psychiatrists with child and adolescent experience, psychiatric mental health nurse practitioners with child and adolescent experience, developmental pediatricians, and neuropsychologists or psychologists. The department received feedback from the medical community that a number of these professionals do not have adequate specialized training to make certain diagnoses. They further explained that some professionals not included in the current list are qualified to establish a diagnosis for the continuation of ABA services. Additionally, Autism Spectrum Disorder (ASD) is a diagnosis that is eligible under the Children's Mental Health Bureau's (CMHB) state plan services as a serious emotional disturbance (SED) diagnosis, and in the CMHB Manual, any licensed mental health professional is qualified to make a qualifying diagnosis.

The department is proposing to expand the list of persons who are eligible to establish a qualifying diagnosis. The reason for expanding the list of qualified professionals is to reduce the interruption in services by allowing for the timely completion of the qualifying diagnosis by a qualified professional with expertise in the diagnosis area. Further, it will establish consistency between the Developmental Disabilities Program (DDP) and CMHB programs.

ARM 37.34.1902 also adopts and incorporates into rule the department's Applied Behavior Analysis (ABA) Manual which will need to be updated to reflect the proposed changes stated above. The department proposes to amend ARM 37.34.1902 to adopt the updated manual.

Fiscal Impact

The proposed rule amendment has no anticipated fiscal impact implications.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be

submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-3026; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., June 23, 2023.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above.

8. An electronic copy of this notice is available on the department's web site at https://dphhs.mt.gov/LegalResources/administrativerules, or through the Secretary of State's web site at http://sosmt.gov/ARM/register.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

11. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Rachel Raymond
Rachel Raymond
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.40.802 and 37.40.830 pertaining to hospice reimbursement	)))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On June 15, 2023, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: https://mt-gov.zoom.us/j/88276725812?pwd=YjZZNHN0WVJlTUhFbWhhVGtLMGlqUT09, meeting ID: 882 7672 5812, and password: 182724; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 882 7672 5812, and password: 182724. Find your local number: https://mt-gov.zoom.us/u/kcmAXiy3UP.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on June 1, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-3026; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.40.802 ADOPTION AND INCORPORATION BY REFERENCE (1) For purposes of this subchapter, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations (CFR) that are in effect as of October 1, ~~2021~~ 2022:

(a) through (2) remain the same.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

37.40.830 HOSPICE, REIMBURSEMENT (1) through (9) remain the same.

(10) The department adopts and incorporates by reference the Hospice Rates ~~FFY22~~ FFY23 fee schedule, effective October 1, ~~2021~~ 2022. Copies of the department's current fee schedules are posted at http://medicaidprovider.mt.gov and may be obtained from the Department of Public Health and Human Services, Senior

& Long Term Care Division, 1100 N. Last Chance Gulch, P.O. Box 4210, Helena, MT 59604-4210.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend the hospice care administrative rules in two ways. First, the department proposes to amend ARM 37.40.802 to update references to federal regulations within the rule to refer to the most current version of the Code of Federal Regulations. Updating these references is necessary to ensure the hospice program rules adopt by reference the current federal regulations applicable to the program.

Second, the department proposes to amend ARM 37.40.830 to update the Medicaid hospice reimbursement fee schedule referenced in (10), in accordance with changes in federal hospice reimbursement rates set by the Centers for Medicare & Medicaid Services (CMS) in the Federal Register effective October 1, 2022. This proposed rule amendment is necessary to pay Medicaid providers according to the current Medicare fee schedule, effective October 1, 2022. In order to pay Medicaid hospice providers according to the Medicare fee schedule and rate methodology, the rule must be updated to reference the most current Medicare hospice fee schedule.

Fiscal Impact

The proposed amendment to ARM 37.40.830 is estimated to have a fiscal impact of $171,044 on the hospice program. Funds impacted will be from federal Medicaid fund source (03585) and general fund source (01100). In State Fiscal Year (SFY) 2022, approximately 381 Medicaid beneficiaries received the hospice benefit.

Much of the Medicaid hospice program's budget provides reimbursement for hospice services provided in nursing facilities in the form of room and board for inpatient nursing facility hospice.

The proposed fee schedule implements an approximate, aggregate reimbursement rate increase of 3.8%, as computed and published by CMS, which will apply to providers in all 56 counties.

Montana hospice rates are affected by a wage index applied geographically by county. The 2023 wage index has decreased for Carbon and Yellowstone Counties by approximately 5%. Cascade County's wage index increased by 1.58%, and the Missoula County wage index decreased by approximately 0.58%. The remainder of the Montana counties are subject to the rural index rate which decreased by approximately 5%.

Additionally, two hospice providers will see a hospice reimbursement rate decrease of 2% for failure to comply with the federal quality data submission requirements during the prior fiscal year. A copy of the proposed hospice fee schedule can be found at https://medicaidprovider.mt.gov/proposedfs.

The increase in hospice rates will be retroactive to October 1, 2022. Any decreases in hospice rates will not be applied retroactively and would be effective upon adoption of the amendments proposed in this proposal notice.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-3026; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., June 23, 2023.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

10. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State May 16, 2023.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the repeal of ARM 6.6.2809 pertaining to the Approved Risk List	)))	NOTICE OF REPEAL

TO: All Concerned Persons

1. On April 14, 2023, the Commissioner of Securities and Insurance, Office of the Montana State Auditor published MAR Notice No. 6-275 pertaining to the proposed repeal of the above-stated rule at page 317 of the 2023 Montana Administrative Register, Issue Number 7.

2. CSI has repealed the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ *Chris McConnell*
Chris McConnell
Rule Reviewer

/s/ *Mary Belcher*
Mary Belcher
Deputy State Auditor
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of an emergency rule closing the Truly Bridge Fishing Access Site in Cascade County	))))	NOTICE OF ADOPTION OF EMERGENCY RULE

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) The Smith River is experiencing moderate to significant flooding. The dangerous conditions include high water levels which have flooded the Truly Bridge Fishing Access Site. The high waters may erode the riverbank causing the banks to become unstable and to sluff into the fast-moving river flow.

(b) Persons recreating on the fishing access site are at risk of:

(i) unexpectedly being swept into the river; and

(ii) being injured or drowning due to unexpected changes to topography obscured by flood waters.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 10 of the 2023 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on May 26, 2023, to advise us of the nature of the accommodation that you need. Please contact Regina Reynolds, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; or e-mail regina.reynolds@mt.gov.

3. The emergency rule is effective May 5, 2023, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

<u>NEW RULE I TRULY BRIDGE FISHING ACCESS SITE EMERGENCY CLOSURE</u> (1) The Truly Bridge Fishing Access Site is located in Cascade County.

(2) The Truly Bridge Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will expire as soon as the department determines the fishing access site is again safe for occupation and recreation. This will depend on the

extent and duration of the flooding in the area. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA
IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Regina Reynolds, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail regina.reynolds@mt.gov. Any comments must be received no later than June 9, 2023.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by e-mail on May 5, 2023.

/s/ Quentin Kujala
Quentin Kujala
Chief of Staff
Department of Fish, Wildlife and Parks

/s/ Kevin Rechkoff
Kevin Rechkoff
Rule Reviewer

Certified to the Secretary of State May 5, 2023.

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 23.13.215 and 23.13.702 pertaining to the certification of public safety officers	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On February 24, 2023, the Public Safety Officers Standards and Training (POST) Council published MAR Notice No. 23-13-269 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 174 of the 2023 Montana Administrative Register, Issue Number 4.

2. The POST Council has amended the above-stated rules as proposed.

3. No comments or testimony were received.

Sheriff Jesse Slaughter
Chairman
Public Safety Officers Standards and Training Council

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ AUSTIN KNUDSEN
Austin Knudsen
Attorney General
Department of Justice

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.70.101, 37.70.102, 37.70.107, 37.70.110, 37.70.115, 37.70.305, 37.70.311, 37.70.312, 37.70.401, 37.70.402, 37.70.406, 37.70.407, 37.70.408, 37.70.602, and 37.70.901 pertaining to the Low Income Home Energy Assistance Program (LIHEAP)	))))))))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On March 24, 2023, the Department of Public Health and Human Services published MAR Notice No. 37-1006 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 228 of the 2023 Montana Administrative Register, Issue Number 6.

2. The department has amended the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Heidi Sanders
Heidi Sanders
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.76.201, 37.76.202, 37.76.203, 37.76.204, and 37.76.205 and the repeal of ARM 37.76.206 pertaining to the Food Distribution Program on Indian Reservations	))))))	NOTICE OF AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On March 24, 2023, the Department of Public Health and Human Services published MAR Notice No. 37-1011 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 245 of the 2023 Montana Administrative Register, Issue Number 6.

2. The department has amended and repealed the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Heidi Sanders
Heidi Sanders
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State May 16, 2023.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.85.105 pertaining to updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates	)))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On March 24, 2023, the Department of Public Health and Human Services published MAR Notice No. 37-1023 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 252 of the 2023 Montana Administrative Register, Issue Number 6.

2. The department has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State May 16, 2023.

BEFORE THE BOARD OF NURSING
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of proposed 2023 rulemaking by the Interstate Commission of Nurse Licensure Compact Administrators pertaining to the Nurse Licensure Compact rules	)))))	INFORMATIONAL NOTICE OF PROPOSED RULEMAKING

TO: All Concerned Persons

1. The Board of Nursing (board), as a party state of the Nurse Licensure Compact, is providing this informational notice of rulemaking pertaining to the Nurse Licensure Compact rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this informational notice. If you require an alternative accessible format of this informational notice, contact the Board of Nursing no later than 5:00 p.m., on June 2, 2023, at 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2300; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or nurse@mt.gov (board's e-mail).

3. On April 18, 2023, the Interstate Commission of Nurse Licensure Compact Administrators (commission) published a Notice of Proposed Rules and Notice of Public Hearing on the National Council of State Boards of Nursing (NCSBN) web site.

4. The commission's notice is available on the NCSBN web site at https://www.nursecompact.com/rule-changes. Any interested person may present verbal or written comments as instructed in the notice. The commission's deadline for submitting comments is 2:00 p.m. Central Time on June 26, 2023.

5. The commission's notice is also available on the board's web site at https://boards.bsd.dli.mt.gov/nursing/regulations/compact-rules-notices.

BOARD OF NURSING
SARAH SPANGLER, RN
PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 16, 2023.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known Subject	1.	Consult ARM Topical Index. Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.
Statute	2.	Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2022. This table includes notices in which those rules adopted during the period December 9, 2022, through May 12, 2023, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2022, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2022 or 2023 Montana Administrative Register.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

ADMINISTRATION, Department of, Title 2

(Public Employees' Retirement Board)

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2-43-634 Amendment by Reference of the State of Montana Public Employee Deferred Compensation (457) Plan Document and Trust Agreement, p. 165, 401

AGRICULTURE, Department of, Title 4

4-22-276 Wheat and Barley Assessment and Refunds, p. 1786, 11

STATE AUDITOR, Office of, Title 6

6-275 Approved Risk List, p. 317

COMMERCE, Department of, Title 8

8-94-201 Administration of the Montana Coal Endowment Program (MCEP) - Emergency Grants - Planning Grants, p. 370

8-111-200 Public Participation - Incorporation of Model Rules - Meetings of the Board - Definitions, p. 200, 402

(Board of Investments)

8-97-101 Board of Investments Rules, p. 1212, 12

EDUCATION, Title 10

(Board of Public Education)
10-55-290 Standards of Accreditation, p. 1966, 255, 403
10-58-272 Professional Educator Preparation Program Standards, p. 1376, 86

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-592 Public Access Land Agreements, p. 2230, 4, 211
12-593 Closing the Valley Garden Fishing Access Site on the Madison River in Madison County, p. 2364
12-594 Closing the Ennis Fishing Access Site on the Madison River in Madison County, p. 13
12-595 Closing the York's Islands Fishing Access Site on the Missouri River in Broadwater County, p. 15
12-596 Closing the Bjornberg Bridge Fishing Access Site in Phillips County, p. 405, 449
12-597 Closing the Alkali Creek Fishing Access Site in Phillips County, p. 407, 450
12-598 Closing the Cree Crossing Wildlife Management Area on the Milk River in Phillips County, p. 409, 451

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ENVIRONMENTAL QUALITY, Department of, Title 17

17-421 Review of Storm Water Designs- Individual and Shared Onsite Wastewater Systems - Well Locations, p. 2278, 324
17-429 Modernizing Application and Notice Requirements - Allowing for Electronic-Only Submittal and Use of Modern Mapping Technologies - Eliminating Requirements Related to Temporary Construction Camps - General Housekeeping Updates, p. 373

TRANSPORTATION, Department of, Title 18

18-190 Motor Carrier Services Safety Requirements, p. 389

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JUSTICE, Department of, Title 23

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23-4-267 Drug and/or Alcohol Analysis, p. 168, 413

23-12-266 Fire Safety, Fireworks - International Fire Code - Additional Definitions, p. 57, 212

(Public Safety Officers Standards and Training Council)
23-13-269 Certification of Public Safety Officers, p. 174

(Board of Crime Control)
23-14-270 Board of Crime Control, p. 298
23-14-271 Board of Crime Control, p. 392

LABOR AND INDUSTRY, Department of, Title 24

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24-22-400 Incumbent Worker Training, p. 223
24-22-401 Workforce Innovation and Opportunity Act Montana State Plan Youth ITA Waiver Request, p. 154
24-22-402 Workforce Innovation and Opportunity Act Montana State Plan OSY Waiver Request, p. 155
24-29-399 Workers' Compensation Medical Fee Schedule, p. 319
24-29-403 Utilization and Treatment Guidelines - Drug Formulary for Workers' Compensation Purposes, p. 398
24-101-398 Organizational, Procedural, and Public Participation Rules, p. 2331, 300

(Board of Outfitters)
24-171-42 Board of Outfitters, p. 2345, 71, 354

LIVESTOCK, Department of, Title 32

32-22-333 Time From Processing That Fluid Milk May Be Sold for Public Consumption, p. 145, 358
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32-22-337 Brands and Earmarks, p. 147, 359

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32-23-334 Milk Control Assessments, p. 73, 213

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-970 Healthy Montana Kids Evidence of Coverage, p. 2235, 178
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37-998 Marijuana Sampling Protocols, p. 2243
37-1006 Low Income Home Energy Assistance Program (LIHEAP), p. 228
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37-1013 Montana Tumor Registry, p. 76, 304
37-1015 Laboratories That Conduct Analyses of Public Water Supplies, p. 79, 305
37-1016 Premarital Blood Testing, p. 2256, 180
37-1018 Updating Medicaid and Non-Medicaid Provider Rates, Fee Schedules, and Effective Dates, p. 2202, 84, 181
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37-1024 Medicaid Coverage of Abortion Services, p. 2353, 414

PUBLIC SERVICE REGULATION, Department of, Title 38

38-2-255 Interventions, p. 1185, 2266
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38-5-260 Construction of Utility Lines and Facilities, p. 152, 322

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42-1064 Revisions to Railroad Income Apportionment Factors, p. 2182, 45
42-1065 2023 Personal Property Depreciation Schedules and Trend Tables, p. 2186, 2368

SECRETARY OF STATE, Office of, Title 44

44-2-264 Business Services Annual Report Filing Fee Waiver in 2024, p. 9

(Office of the Commissioner of Political Practices)
44-2-263 Payment Threshold–Inflation Adjustment for Lobbyists, p. 2264, 185

EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in April 2023 appear. Potential vacancies from June 1, 2023 through June 30, 2023, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of May 1, 2023.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR APRIL 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
Coal Board			
Ms. Sandra Jones	Governor	Marianne Roose	4/10/2023
Roundup			1/1/2027
Qualifications (if required):	District 2 - Public Administration		
Mr. Tim Schaff	Governor	Reappointed	4/10/2023
Roundup			1/1/2027
Qualifications (if required):	District 2 - Education expertise		
Ms. Sandra Tutvedt	Governor	Veronica Small-Eastman	4/10/2023
Kalispell			1/1/2027
Qualifications (if required):	District 2 - Public Administration		
State Compensation Insurance Fund Board of Directors			
Ms. Nancy Butler	Governor	Jack Owens	4/1/2023
Helena			3/31/2027
Qualifications (if required):	Executive management experience		
Mr. Wylie Galt	Governor	Janice Vanriper	4/1/2023
Martinsdale			3/31/2027
Qualifications (if required):	Policy holder and private enterprise representative		

EXECUTIVE BRANCH APPOINTEES FOR APRIL 2023

Appointee	Appointed By	Succeeds	Appointment/End Date
State Compensation Insurance Fund Board of Directors Cont.			
Mr. Dexter Thiel	Governor	Reappointed	4/1/2023
Sidney			3/31/2027
Qualifications (if required): Policy Holder			
State Rehabilitation Council			
Ms. Kathy Hampton	Governor	Reappointed	4/17/2023
Helena			10/1/2025
Qualifications (if required): Client Assistance Program			
Ms. Barbara Lowney	Governor	New	4/17/2023
Missoula			10/1/2025
Qualifications (if required): Advocacy Community			
Mr. Tommy Roberts	Governor	New	4/17/2023
Billings			10/1/2025
Qualifications (if required): Advocacy Community			

EXECUTIVE BRANCH VACANCIES – JUNE 1, 2023 THROUGH JUNE 30, 2023

Board/Current Position Holder	Appointed By	Term End
Board of Nursing Home Administrators		
Mr. Thomas Klotz, Helena	Governor	6/1/2023
Qualifications (if required): Nursing Home Administrator		
Board of Water Well Contractors		
Mr. Andy Eslinger, Corvallis	Governor	6/30/2023
Qualifications (if required): Water well contractor		
Flathead Basin Commission		
Ms. Jasmine Courville-Brown, Ronan	Governor	6/30/2023
Qualifications (if required): Industrial, environmental, and other interests		
Ms. Casey Lewis, Kalispell	Governor	6/30/2023
Qualifications (if required): Industrial, environmental, and other interests		
Mr. Charles J. Potter, Columbia Falls	Governor	6/30/2023
Qualifications (if required): Industrial, environmental, and other interests		
Forest Lands Advisory Council		
Commissioner Andy Hunthausen, Helena	Governor	6/30/2023
Qualifications (if required): County Commissioner		
Mr. Gordy Sanders, Seeley Lake	Governor	6/30/2023
Qualifications (if required): Forest landowner-industry		

EXECUTIVE BRANCH VACANCIES – JUNE 1, 2023 THROUGH JUNE 30, 2023

Board/Current Position Holder	Appointed By	Term End
Forest Lands Advisory Council Cont.		
Mr. Randy Mannix, Helmville	Governor	6/30/2023
Qualifications (if required): Forest land owner-non industrial		
Future Fisheries Review Panel		
Mr. Bill Semmens, Helena	Governor	6/30/2023
Qualifications (if required): Dept of Transportation Representative		
Mr. Michael Paul Johns, Bozeman	Governor	6/30/2023
Qualifications (if required): Licensed angler		
Ms. Karin Fischer Boyd, Bozeman	Governor	6/30/2023
Qualifications (if required): Geomorphologist		
Mr. David Cope, Ennis	Governor	6/30/2023
Qualifications (if required): licensed angler		
Mr. Richard Lane, Missoula	Governor	6/30/2023
Qualifications (if required): Silviculture expertise		
Mr. Ron Pierce, Lolo	Governor	6/30/2023
Qualifications (if required): Fisheries Restoration Professional		
Mr. Mike Newton, Glendive	Governor	6/30/2023
Qualifications (if required): expertise in fisheries		

EXECUTIVE BRANCH VACANCIES – JUNE 1, 2023 THROUGH JUNE 30, 2023

Board/Current Position Holder	Appointed By	Term End
Future Fisheries Review Panel Cont.		
Mr. Clint Peck, Billings	Governor	6/30/2023
Qualifications (if required): conservation district representative		
Interstate Commission on Educational Opportunity for Military Children		
Mr. Ray Shaw, Sheridan	Governor	6/30/2023
Qualifications (if required): Ex officio member as Compact Commissioner		
Mr. Tom Moore, Great Falls	Governor	6/30/2023
Qualifications (if required): Superintendent of a school district with a high concentration of military children		
Ms. Lisa Sapp, Great Falls	Governor	6/30/2023
Qualifications (if required): Military installation representative		
Lt. Col. John Bleile, Fort Harrison	Governor	6/30/2023
Qualifications (if required): Executive branch representative from the National Guard		
Libby Asbestos Superfund Oversight Committee		
Mr. George F. Jamison, Libby	Governor	6/30/2023
Qualifications (if required): Citizen of Lincoln County		
Mental Disabilities Board of Visitors		
Mrs. Melissa Ancell, Poplar	Governor	6/30/2023
Qualifications (if required): Consumer of developmental disability services		

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Board/Current Position Holder	Appointed By	Term End
Mental Disabilities Board of Visitors Cont.		
Mr. Scott Klajic, Helena	Governor	6/30/2023
Qualifications (if required): Mental health treatment professional		
Ms. Mary Luinstra, Great Falls	Governor	6/30/2023
Qualifications (if required): Consumer of mental health services		
Montana Land Information Advisory Council		
Mr. Mike Bousliman, Helena	Governor	6/30/2023
Qualifications (if required): Department of Transportation designee		
Ms. Jennie Stapp, Helena	Governor	6/30/2023
Qualifications (if required): State Librarian		
Ms. Dawn Anderson, Helena	Governor	6/30/2023
Qualifications (if required): FWP designee		
Mr. Matthew Heller, Bozeman	Governor	6/30/2023
Qualifications (if required): U.S. Dept. of Interior designee, USFWS		
Mr. Valentijn Hoff, Missoula	Governor	6/30/2023
Qualifications (if required): Montana University System representative		
Mr. Eric Spangenberg, Helena	Governor	6/30/2023
Qualifications (if required): County or municipal government representative active in land information systems		

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Board/Current Position Holder	Appointed By	Term End
Montana Land Information Advisory Council Cont.		
Mr. Allen J. Armstrong, Billings	Governor	6/30/2023
Qualifications (if required): U.S. Department of Interior designee, BLM		
Mrs. Lee Macholz, Missoula	Governor	6/30/2023
Qualifications (if required): County or municipal government representative active in land information systems		
Mr. Dan Stahly, Bozeman	Governor	6/30/2023
Qualifications (if required): Montana Association of Registered Land Surveyors representative		
Mr. Carl Healy Sr., Harlem	Governor	6/30/2023
Qualifications (if required): Indian tribal interest representative		
Mr. Kevin Gilbertson, Helena	Governor	6/30/2023
Qualifications (if required): Chief Information Officer		
Ms. Brandy Holstein, Helena	Governor	6/30/2023
Qualifications (if required): Department of Revenue designee		
Mr. Brian Collins, Helena	Governor	6/30/2023
Qualifications (if required): DNRC designee		
Mr. Ken Miller, Hamilton	Governor	6/30/2023
Qualifications (if required): Montana Association of GIS Professionals		
Mr. Bill Bullock, Red Lodge	Governor	6/30/2023
Qualifications (if required): County or municipal government representative active in land information systems		

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Board/Current Position Holder	Appointed By	Term End
Montana Land Information Advisory Council Cont.		
Ms. Charlotte Lauerman, Helena	Governor	6/30/2023
Qualifications (if required): Active in land information systems representing public utility or private business		
Mr. Brandon Wittman, Huntley	Governor	6/30/2023
Qualifications (if required): Active in land information systems representing public utility or private business		
Ms. Heather Weldon, Missoula	Governor	6/30/2023
Qualifications (if required): USDA Forest Service designee		
Mr. Kevin Loberg, Bozeman	Governor	6/30/2023
Qualifications (if required): USDA (NRCS) designee		
Montana Pulse Crop Committee		
Dr. Sreekala Bajwa, Bozeman	Governor	6/30/2023
Qualifications (if required): Dean of Agriculture of MSU - Bozeman		
Mr. Paul Kanning, Flaxville	Governor	6/30/2023
Qualifications (if required): Member from an eastern district		
Mrs. Jillien J. Streit, Chester	Governor	6/30/2023
Qualifications (if required): Member from a western district		
Montana Wheat and Barley Committee		
Mr. Alan Klempel, Bloomfield	Governor	6/1/2023
Qualifications (if required): Farmer deriving income from wheat or barley in District VII, Republican		

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Board/Current Position Holder	Appointed By	Term End
Montana Wheat and Barley Committee Cont.		
Mr. Michael V. O'Hara, Fort Benton	Governor	6/1/2023
Qualifications (if required): Farmer deriving income from wheat or barley in District IV, Democrat		
Mr. Brett Dailey, Jordan	Governor	6/1/2023
Qualifications (if required): Farmer deriving income from wheat or barley, District IV, Republican		
Petroleum Tank Release Compensation Board		
Ms. Kristi Kline, Kremlin	Governor	6/30/2023
Qualifications (if required): Member with an environmental background		
Statewide Public Safety Communications System Advisory Council		
Lee Sullivan, Butte	Governor	6/30/2023
Qualifications (if required): Fire Protection Community Representative		
Mr. Joshua D. Turnsplenty, Hays	Governor	6/30/2023
Qualifications (if required): Tribal representative		
Ms. Chris Heggem, Helena	Governor	6/30/2023
Qualifications (if required): Representative of the Governor's Office		
Mr. Derek Yeager, Billings	Governor	6/30/2023
Qualifications (if required): Representative of the Montana Association of Public Safety Communications Officials		

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Board/Current Position Holder	Appointed By	Term End
Statewide Public Safety Communications System Advisory Council Cont.		
Mr. Mike Linder, Billings	Governor	6/30/2023
Qualifications (if required): Representative of law enforcement		
Ms. Amy Beick, Kalispell	Governor	6/30/2023
Qualifications (if required): Representative of the fire protection community		
Ms. Lisa Mitchell, Baker	Governor	6/30/2023
Qualifications (if required): Representative of the emergency medical community		
State Banking Board		
Ms. Sherry Essman, Billings	Governor	6/30/2023
Qualifications (if required): Public member		
Mr. Jim Powell, Bozeman	Governor	6/30/2023
Qualifications (if required): Public member		
State Library Commission		
Ms. Constance Behe, Kalispell	Governor	6/1/2023
Qualifications (if required): Member		
Mr. Dalton K. Johnson, Missoula	Governor	6/1/2023
Qualifications (if required): Member		

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Board/Current Position Holder	Appointed By	Term End
Statewide Public Safety Communications System Advisory Council		
Mr. Jeremy Virts, Great Falls	Governor	6/30/2023
Qualifications (if required): Montana Emergency Medical Services Association Representative		

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